

In the Matter of SIGMUND FREISINGER, DOING BUSINESS UNDER THE NAME AND STYLE OF NORTH RIVER YARN DYERS *and* TEXTILE WORKERS UNION OF AMERICA ¹

Case No. C-367

SUPPLEMENTAL DECISION AND ORDER

October 3, 1939

On January 9, 1939, the National Labor Relations Board, herein called the Board, issued a Decision and Order in this matter.² On July 6, 1939, Sigmund Freisinger, doing business under the name and style of North River Yarn Dyers, herein called the respondent, and counsel for the Board entered into the following stipulation:

STIPULATION

It is hereby stipulated and agreed by and between Sigmund Freisinger, doing business under the name and style of North River Yarn Dyers, hereinafter known as the respondent, and Walter Wilbur, attorney, National Labor Relations Board, as follows:

I

The respondent is engaged in the business of dyeing yarn, including rayon, wool, and other similar materials. He owns and operates a plant at Union City, New Jersey. The principal raw materials used by the respondent in the process of dyeing are aniline dyes and chemicals. During 1936 the respondent purchased raw materials amounting in value to \$16,429.98, of which 85 per cent represented raw materials shipped to the respondent from points outside New Jersey. Ninety-five per cent of the yarn dyed by the respondent is shipped to him by customers who retain title to the yarn while it is in the possession of and being dyed by the respondent. Up to June 1937, approximately 80 per cent of the materials dyed by the respondent for his customers were shipped to the respondent from points outside New Jersey. The respondent employs one salesman who

¹ Herein called the Union.

² *Matter of Sigmund Freisinger, doing business under the name and style of North River Yarn Dyers and Textile Workers Organizing Committee*, 10 N. L. R. B. 1043.

15 N. L. R. B., No. 94.

carries on his activities in the States of New Jersey and New York. The respondent advertises in trade journals having circulation in States other than New Jersey. Part of the goods handled by respondent are shipped over interstate trucking lines.

II

Textile Workers Union of America, successor to Textile Workers Organizing Committee, is a labor organization within the meaning of the National Labor Relations Act.

III

Heretofore, by Decision and Order of the National Labor Relations Board in these proceedings dated January 9, 1939, the respondent was ordered and directed to take the following affirmative action which the Board found would effectuate the policies of the National Labor Relations Act:

(a) Upon request, bargain collectively with the Textile Workers Organizing Committee as the exclusive representative of all his employees at his plant at Union City, New Jersey, except clerical and supervisory employees, in respect to rates of pay, wages, hours of work, and other conditions of employment, and if an understanding is reached on any such matters, embody such understanding in a written signed agreement;

(b) Offer to Peter Paul Zavazanjan and Attilio Rancone full and immediate reinstatement to their former or substantially equivalent positions, without prejudice to their seniority and other rights and privileges;

(c) Upon application, offer to Carlo Romano immediate and full reinstatement to his former or substantially equivalent position, without prejudice to his seniority and other rights and privileges in the manner set forth in the section entitled "Remedy," appearing as Section V of the Board's Decision, placing him, if employment is not immediately available, upon a preferential list in the manner set forth in said section, and thereafter, in said manner, offer him employment as it becomes available;

(d) Make whole Peter Paul Zavazanjan and Attilio Rancone for any losses of pay they have suffered by reason of the respondent's discrimination against them by payment to each of them of a sum of money equal to that which he would normally have earned as wages from date of the respondent's discrimination against him to the date of such offer of reinstatement, less his net earnings during said period; deducting however from the amount otherwise due to each of the said employees monies

received by said employees during said period for work performed upon Federal, State, County, Municipal or other Government or governments which supplied the funds for said work relief projects;

(e) Make whole Carlo Romano for any loss of pay he may suffer by reason of any refusal of his application for reinstatement in accordance with paragraph 2 (c) above, by payment to him of a sum of money equal to that which he would normally have earned as wages during the period from the date of any such refusal of his application to the date of reinstatement, less his net earnings during said period; deducting, however, from the amount otherwise due to him monies received by him during said period for work performed upon Federal, State, County, Municipal, or other Government or governments which supplied the funds for said work relief projects;

(f) Immediately post notices in conspicuous places in the respondent's plant at Union City, New Jersey, and maintain such notices for a period of at least sixty (60) consecutive days, stating that respondent will cease and desist in the manner set forth in Section 1 (a), (b), and (c) of the Order of the Board and it will take the affirmative action set forth in 2 (a), (b), (c), (d), and (e) of said Order; and

(g) Notify the Regional Director for the Second Region in writing within ten (10) days from the date of said Order what steps the respondent has taken to comply therewith.

IV

It is hereby stipulated and agreed that application be and the same is hereby made to the said Board to amend its said Order as of the effective date thereof, in the following particulars, to wit:

Amend Section 2 (d) of said Order by striking, after the words "losses of pay they" in line 2 of said Section, the words "have suffered by reason of the respondent's discrimination against them," and by substituting in lieu thereof the words "or either of them may suffer by reason of any refusal of their application for reinstatement in accordance with paragraph 2 (b) above;" and by striking after the words "wages from date of" in line 5 of said Section, the words "the respondent's discrimination against him," and by substituting in lieu thereof the words "any such refusal of his application" so that said Section 2 (d) as amended will read as follows:

"Make whole Peter Paul Kavazanjian and Attilio Rancone for any losses of pay they or either of them may suffer by reason of

any refusal of their application for reinstatement in accordance with paragraph 2 (b) above by payment to each of them of a sum of money equal to that which he would normally have earned as wages from date of any such refusal of his application to the date of such offer of reinstatement, less his net earnings during said period; deducting, however, from the amount otherwise due to each of the said employees monies received by said employees during said period for work performed upon Federal, State, County, Municipal, or other work relief projects and pay over the money so deducted to the appropriate fiscal agency of the Federal, State, County, Municipal, or other Government or governments which supplied the funds for said work relief projects."

V

It is hereby further stipulated and agreed that application be and the same is hereby made to the said Board to amend so much of Section V of the Decision of the said Board, entitled "The Remedy," as shall conform the same to the terms of the Board's Order as amended as hereinabove more fully set forth.

VI

It is further stipulated and agreed that the respondent has substantially complied with the terms of Sections 2 (b), 2 (c), 2 (d) as amended, 2 (e), and 2 (f) of said Order.

VII

It is further stipulated and agreed that the respondent has complied with the terms of Section 2 (a) of the said Order, in that the respondent has bargained collectively with the Union, has endeavored to reach an understanding in respect to rates of pay, wages, hours of work, and other conditions of employment, and is ready and willing to embody such understanding as may be reached in a written signed agreement; and further that the respondent is now ready and willing to enter into a written signed agreement on the terms more fully set forth in the annexed memorandum, marked "Exhibit A".

VIII

It is further stipulated and agreed that upon the whole record herein, and upon this stipulation, the said National Labor Relations Board may, upon due notice to respondent, and with his consent which is hereby expressly granted, apply to the United

States Circuit Court of Appeals for the Second Circuit for an order and decree enforcing the provisions of the Board's Order as amended as hereinabove provided.

IX

It is further stipulated and agreed that the foregoing stipulation embodies the entire agreement between the Board and the respondent, and that there is no verbal agreement which in any manner alters, modifies, or enlarges the terms thereof; and that this stipulation shall be void and ineffective for any purpose whatsoever unless and until approved by the National Labor Relations Board.

There was attached to the stipulation an Exhibit A setting forth the terms which the respondent is willing to incorporate into a signed contract with the Union.

On July 12, 1939, the Board approved said stipulation and ordered it made a part of the record herein.

On July 29, 1939, the Union filed with the Board a motion to change the title of these proceedings by substituting the name Textile Workers Union of America for the name Textile Workers Organizing Committee and to make such other changes as may be deemed necessary in the premises. On September 13, 1939, the Board notified the parties that on September 23, 1939, unless sufficient cause to the contrary should then appear, it would substitute the name Textile Workers Union of America for the name Textile Workers Organizing Committee wherever it appears in these proceedings. No objections having been filed, the Board, on September 26, 1939, granted the Union's motion in accordance with the Board's notice of September 13.

ORDER

Upon the basis of the above stipulation and the entire record in the case, and pursuant to Section 10 (c) and (d) of the National Labor Relations Act, 49 Stat. 449, the National Labor Relations Board hereby orders that the Decision and Order issued herein on January 9, 1939, be, and it hereby is, amended, *nunc pro tunc*, as follows:

1. By striking from Section V of said Decision the second and third paragraphs thereof and substituting therefor the following:

As we have found that the respondent discriminated in regard to the hire and tenure of employment of Peter Paul Kavazanjian and Attilio Rancone, we shall order the respondent to offer them immediate reinstatement to their former or substantially equivalent positions. We shall order the respondent to make them

whole for any losses of pay they may suffer by any refusal of their applications for reinstatement by payment to each of them of a sum equal to that which he would normally have earned as wages during the period from the date of any such refusal of his application to the date of reinstatement less his net earnings³ during said period. Such reinstatement shall be made without prejudice to their seniority and other rights and privileges.

2. By striking from Section 2 (d) of said Order, after the words "losses of pay they" in line 2 of said Section, the words "have suffered by reason of the respondent's discrimination against them" and by substituting in lieu thereof the words "or either of them may suffer by reason of any refusal of their application for reinstatement in accordance with paragraph 2 (b) above"; and by striking, after the words "wages from date of" in line 5 of said Section, the words "the respondent's discrimination against him" and by substituting in lieu thereof the words "any such refusal of his application" so that said Section 2 (d) as amended will read as follows:

Make whole Peter Paul Kavazanjian and Attilio Rancone for any losses of pay they or either of them may suffer by reason of any refusal of their application for reinstatement in accordance with paragraph 2 (b) above by payment to each of them of a sum of money equal to that which he would normally have earned as wages from date of any such refusal of his application to the date of such offer of reinstatement, less his net earnings during said period; deducting, however, from the amount otherwise due to each of the said employees monies received by said employees during said period for work performed upon Federal, State, county, municipal, or other work-relief projects and pay over the money so deducted to the appropriate fiscal agency of the Federal, State, county, municipal, or other government or governments which supplied the funds for said work-relief projects.

MR. WILLIAM M. LEISERSON took no part in the consideration of the above Supplemental Decision and Order.

³ By "net earnings" is meant earnings less expenses, such as for transportation, room, and board, incurred by an employee in connection with obtaining work and working elsewhere than for the respondent, which would not have been incurred but for the unlawful discrimination in regard to his hire and tenure of employment and the consequent necessity of his seeking employment elsewhere. See *Matter of Crossett Lumber Company and United Brotherhood of Carpenters and Joiners of America, Lumber and Sawmill Workers Union, Local 2590*, 8 N. L. R. B. 440. Monies received for work performed upon Federal, State, county, municipal, or other work-relief projects are not considered as earnings, but, as provided below in the Order, shall be deducted from the sum due the employee, and the amount thereof shall be paid over to the appropriate fiscal agency of the Federal, State, county, municipal, or other government or governments which supplied the funds for said work-relief projects.